

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA  
SCRANTON DIVISION**

DAVID SCOTT,

Plaintiff,

CASE NO.:

vs.

VERIZON WIRELESS PERSONAL  
COMMUNICATIONS, L.P.,

\_\_\_\_\_ /

**COMPLAINT**

1. Plaintiff alleges violation of the Telephone Consumer Protection Act, 47 U.S.C. §227 *et seq* (“TCPA”).

**JURISDICTION AND VENUE**

2. This is an action for damages exceeding Fifteen Thousand Dollars (\$15,000.00) exclusive of attorney’s fees and costs.

3. Jurisdiction and venue for purposes of this action are appropriate and conferred by 28 U.S.C §§1331 and 1337. *Mims v. Arrow Financial Services LLC*, 132 S. Ct. 740, 751-53 (2012).

4. The alleged violations described in the Complaint occurred in Monroe County, Pennsylvania.

### **FACTUAL ALLEGATIONS**

5. Plaintiff is a natural person, and a citizen of the State of Pennsylvania, residing in Monroe County, Pennsylvania.

6. Plaintiff is an alleged debtor.

7. Plaintiff is the “called party.” See *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 643 (7<sup>th</sup> Cir. 2012), reh’g denied (May 25, 2012).

8. Defendant, Verizon Wireless Personal Communications, L.P. (hereinafter “Verizon”) is a foreign limited partnership doing business in the State of Pennsylvania with its principal place of business at One Verizon Way, Basking Ridge, NJ 07920.

9. Defendant followed their corporate policy when attempting to communicate with the Plaintiff.

10. Defendant placed approximately 50 calls to Plaintiff since June 1, 2011.

11. Defendant intentionally harassed and abused Plaintiff on numerous occasions by calling several times during one day, and back-to-back days, with such frequency as can reasonably be expected to harass.

12. Each call the Defendant made to the Plaintiff's cell phone was done so without the "express permission" of the Plaintiff.

13. The Defendant has a corporate policy to use an automatic telephone dialing system or a pre-recorded or artificial voice, just as they did to the Plaintiff's cellular telephone in this case, with no way for the consumer, or the Plaintiff, to remove the incorrect number.

14. Despite actual knowledge of their wrongdoing, the Defendant continued the campaign of abuse.

15. After the first two phone calls, which was in late June or early July 2011, Plaintiff returned the Defendant's call to advise they were calling wrong party. Plaintiff informed Defendant that he was not "Stephen Biancelli" and did not know "Stephen Biancelli". Plaintiff asked for the phone calls to cease.

16. The Plaintiff had similar conversations with the Defendant on four or five further occasions.

17. Defendant left pre-recorded or artificial voice messages on the Plaintiff's cellular phone, (570) 856-3042, for a person by the name of "Stephen Biancelli". including but not limited to, the following dates:

12/07/2011 at 12:48 p.m.  
12/09/2011 at 12:42 p.m.  
12/12/2011 at 12:05 p.m.  
12/13/2011 at 1:14 p.m.  
12/14/2011 at 11:54 a.m.  
12/17/2011 at 10:00 a.m.  
12/20/2011 at 12:54 p.m.  
12/22/2011 at 8:26 a.m.  
12/24/2011 at 12:45 p.m.  
12/27/2011 at 8:32 a.m.  
12/29/2011 at 10:11 a.m.  
12/31/2011 at 5:57 p.m.  
01/03/2012 at 3:47 p.m.  
01/04/2012 at 1:51 p.m.  
01/06/2012 at 9:45 a.m.  
01/09/2012 at 5:36 p.m.  
01/11/2012 at 12:59 p.m.  
01/13/2012 at 8:41 a.m.  
01/16/2012 at 8:59 a.m.  
01/18/2012 at 10:34 a.m.  
01/20/2012 at 8:58 a.m.  
01/23/2012 at 9:36 a.m.  
01/25/2012 at 9:16 a.m.

18. On 12/07/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

19. On 12/09/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

20. On 12/12/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

21. On 12/13/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

22. On 12/14/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

23. On 12/17/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

24. On 12/20/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

25. On 12/22/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

26. On 12/24/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

27. On 12/27/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

28. On 12/29/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

29. On 12/31/2011, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

30. On 1/03/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

31. On 1/04/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

32. On 1/06/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

33. On 1/09/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

34. On 1/11/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

35. On 1/13/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:



**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

36. On 1/16/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

37. On 1/18/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

38. On 1/20/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

39. On 1/23/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

40. On 1/25/2012, the Defendant left the following prerecorded and/or artificial voice message on Plaintiff's voicemail on his cellular phone:

**This is an important message for Stephen Biancelli from Verizon Wireless. Please contact our office at (877) 617-6714 regarding your account. It is extremely important that you return this message as soon as possible. Once again, the number is (877) 617-6714. Thank you.**

41. Plaintiff received approximately 50 calls from Defendant from June 2011 through February 2013.

42. Defendant's corporate policy is structured as to continue to call individuals, like the Plaintiff, despite these individuals explaining to the Defendant that they are the wrong party.

43. Defendant's corporate policy provided no means for the Plaintiff to have his number removed from the call list.

44. Defendant has a corporate policy to harass and abuse individuals despite actual knowledge that the called parties do not owe the alleged debt.

45. Defendant has many similar complaints from non-debtors across the country, as those alleged in this lawsuit, by Plaintiff.

46. Plaintiff did not expressly consent to Defendant's placement of telephone calls to Plaintiff's cellular telephone by the use of an automatic telephone dialing system, auto dialer or a pre-recorded or artificial voice prior to Defendant's placement of calls.

47. None of Defendant's telephone calls placed to Plaintiff were for "emergency purposes: as specified in 47 U.S.C. §227(b)(1)(A).

48. Defendant willfully and/or knowingly violated the TCPA with respect to the Plaintiff.

**COUNT I**  
**(Violation of the TCPA)**

49. Plaintiff incorporates Paragraphs one (1) through forty-eight (48).

50. Defendant repeatedly placed non-emergency telephone calls to Plaintiff's cellular telephone using an automatic telephone dialing system, auto dialer or prerecorded or artificial voice without Plaintiff's prior express consent in violation of federal law, including 47 U.S.C. §227(b)(1)(A)(iii).

**WHEREFORE**, Plaintiff respectfully demands a trial by jury on all issues so triable and judgment against Defendant for statutory damages, punitive damages, actual damages, costs, interest, attorney's fees, enjoinder from further violations of these parts and any other such relief the court may deem just and proper.

Respectfully submitted,

*s/ Amanda J. Allen*

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